

Food and Nutrition Service, USDA

§ 226.11

days to complete the required unannounced reviews.

(d) All records to support the claim shall be retained for a period of three years after the date of submission of the final claim for the fiscal year to which they pertain, except that if audit findings have not been resolved, the records shall be retained beyond the end of the three year period as long as may be required for the resolution of the issues raised by the audit. All accounts and records pertaining to the Program shall be made available, upon request, to representatives of the State agency, of the Department, and of the U.S. General Accounting Office for audit or review, at a reasonable time and place.

(e) Unless otherwise approved by FNS, the Claim for Reimbursement for any month shall cover only Program operations for that month except if the first or last month of Program operations in any fiscal year contains 10 operating days or less, such month may be added to the Claim for Reimbursement for the appropriate adjacent month; however, Claims for Reimbursement may not combine operations occurring in two fiscal years. A final Claim for Reimbursement shall be postmarked and/or submitted to the State agency not later than 60 days following the last day of the full month covered by the claim. State agencies may establish shorter deadlines at their discretion. Claims not postmarked and/or submitted within 60 days shall not be paid with Program funds unless FNS determines that an exception should be granted. The State agency shall promptly take corrective action with respect to any Claim for Reimbursement as determined necessary through its claim review process or otherwise. In taking such corrective action, State agencies may make upward adjustments in Program funds claimed on claims filed within the 60 day deadline if such adjustments are completed within 90 days of the last day of the claim month and are reflected in the final Report of the Child and Adult Care Food Programs (FNS-44) for the claim month which is required under 226.7(d). Upward adjustments in Program funds claimed which are not reflected in the final FNS-44

for the claim month shall not be made unless authorized by FNS. Downward adjustments in Program funds claimed shall always be made without FNS authorization regardless of when it is determined that such adjustments are necessary.

(f) If, based on the results of audits, investigations, or other reviews, a State agency has reason to believe that an institution, child or adult care facility, or food service management company has engaged in unlawful acts with respect to Program operations, the evidence found in audits, investigations, or other reviews is a basis for non-payment of claims for reimbursement.

[47 FR 36527, Aug. 20, 1982, as amended by Amdt. 5, 49 FR 18988, May 4, 1984; 50 FR 26975, July 1, 1985; 53 FR 52590, Dec. 28, 1988; Amdt. 22, 55 FR 1378, Jan. 14, 1990; 62 FR 23618, May 1, 1997; 69 FR 53543, Sept. 1, 2004; 70 FR 43261, July 27, 2005; 71 FR 39519, July 13, 2006]

§ 226.11 Program payments for centers.

(a) Payments shall be made only to institutions operating under an agreement with the State agency for the meal types specified in the agreement served at approved child care centers, adult day care centers, emergency shelters, and outside-school-hours care centers. A State agency may develop a policy under which centers are reimbursed for meals served in accordance with provisions of the Program in the calendar month preceding the calendar month in which the agreement is executed, or the State agency may develop a policy under which centers earn reimbursement only for meals served in approved centers on or after the effective date of the Program agreement. If the State agency's policy permits centers to earn reimbursement for meals served prior to the execution of a Program agreement, Program reimbursement must not be received by the center until the agreement is executed.

(b) Each child care institution or outside-school-hours care institution must report each month to the State agency the total number of meals, by type (breakfast, lunch, supper, and snack), served to children, except that such reports must be made for a for-profit center only for calendar months during which not less than 25 percent of the

children in care (enrolled or licensed capacity, whichever is less) were eligible for free or reduced price meals or were title XX beneficiaries. Each adult day care institution shall report each month to the State agency the total number of meals, by type (breakfasts, lunches, suppers, and supplements), served to adult participants, except that such reports shall be made for a for-profit center only for calendar months during which no less than 25 percent of enrolled adult participants were title XIX or title XX beneficiaries. Prior to submitting its consolidated monthly claim to the State agency, each sponsoring organization must conduct reasonable edit checks on the sponsored centers' meal claims which, at a minimum, include those edit checks specified at § 226.10(c).

(c) Each State agency must base reimbursement to each child care institution or outside-school-hours institution on the number of meals, by type (breakfast, lunch, supper, and snack), served to children multiplied by the assigned rates of reimbursement, except that reimbursement must be payable to for-profit child care centers or for-profit outside-school-hours care centers only for calendar month during which at least 25 percent of children in care (enrolled or licensed capacity, whichever is less) were eligible for free or reduced price meals or were title XX beneficiaries. Each State agency must base reimbursement to each adult day care institution on the number of meals, by type, served to adult participants multiplied by the assigned rates of reimbursement, except that reimbursement must be payable to for-profit adult day care centers only for calendar months during which at least 25 percent of the enrolled adult participants were beneficiaries of title XIX, title XX, or a combination of titles XIX and XX. In computing reimbursement, the State agency must either:

(1) Base reimbursement to child care centers and adult day care centers on actual time of service meal counts, and multiply the number of meals, by type, served to participants eligible to receive free meals, served to participants eligible to receive reduced-price meals, and served to participants from families not meeting such standards by the

applicable national average payment rate; or

(2) Apply the applicable claiming percentage or percentages to the total number of meals, by type, served to participants and multiply the product or products by the assigned rate of reimbursement for each meal type; or

(3) Multiply the assigned blended per meal rate of reimbursement by the total number of meals, by type, served to participants.

(d) If the State agency elects to reimburse its institutions according to the lesser of rates or actual costs, total Program payments to an institution during any fiscal year, including any cash payments in lieu of commodities, shall not exceed allowable Program operating and administrative costs, less income to the Program. The State agency may limit payments for administrative costs to the amount approved in the annual administrative budget of the institution. The State agency may prohibit an institution from using payments for operating costs to pay for administrative expenses.

(e) Each institution shall maintain records as prescribed by the State agency's financial management system.

[47 FR 36527, Aug. 20, 1982, as amended at 48 FR 21530, May 13, 1983; 52 FR 36907, Oct. 2, 1987; 53 FR 52590, Dec. 28, 1988; 62 FR 23618, May 1, 1997; 69 FR 53543, Sept. 1, 2004; 70 FR 43262, July 27, 2005; 71 FR 5, Jan. 3, 2006]

§ 226.12 Administrative payments to sponsoring organizations for day care homes.

(a) *General.* Sponsoring organizations for day care homes shall receive payments for administrative costs. During any fiscal year, administrative costs payments to a sponsoring organization may not exceed the lesser of (1) actual expenditures for the costs of administering the Program less income to the Program, or (2) the amount of administrative costs approved by the State agency in the sponsoring organization's budget, or (3) the sum of the products obtained by multiplying each month the sponsoring organization's:

(i) Initial 50 day care homes by 42 dollars;

(ii) Next 150 day care homes by 32 dollars;